

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Theodore Lester McWhite, Jr.,)	C/A No.: 1:11-2756-JFA-SVH
)	
Plaintiff,)	
)	
vs.)	REPORT AND RECOMMENDATION
)	
Wesley Ingram,)	
)	
Defendant.)	
)	

Plaintiff, proceeding pro se and in forma pauperis, brought this action pursuant to 28 U.S.C. § 1983. On July 12, 2012, an order denying Plaintiff's motions for summary judgment and for default was mailed to Plaintiff. [Entry #67]. On July 24, 2012, the order was returned to the Clerk's office as undeliverable with the word "Released" written on the envelope. [Entry #68]. Plaintiff was previously directed by order of this court to keep the court apprised of any change in address. [Entry #13]. Plaintiff has failed to comply with this order, and as a result, neither the court nor defendant has any means of contacting him concerning his case.

Based on the foregoing, it appears to the court that Plaintiff wishes to abandon this action. It is therefore recommended that this action be dismissed with prejudice, in accordance with Fed. R. Civ. P. 41(b). The Clerk is directed to send this Report and Recommendation to Plaintiff at his last known address. If Plaintiff notifies the court within the time set for filing objections to this Report and Recommendation that he wishes to continue with this case and provides a current address, the Clerk is directed to vacate this Report and Recommendation and return this file to the undersigned for further

handling. If, however, no objections are filed, the Clerk shall forward this Report and Recommendation to the district judge for disposition. If the district judge accepts this recommendation, all pending motions will be rendered moot.

IT IS SO RECOMMENDED.



August 20, 2012
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge

**The parties are directed to note the important information in the attached
“Notice of Right to File Objections to Report and Recommendation.”**

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).